COMMONWEALTH OF KENTUCKY
CABINET FOR HEALTH AND FAMILY SERVICES
DEPARTMENT FOR MEDICAID SERVICES

IN RE: THERAPY SERVICES TECHNICAL ADVISORY COMMITTEE

SPECIAL-CALLED MEETING

November 10,2020
8:30 A.M.
(All Participants Appear Via Zoom or Telephonically)

APPEARANCES

Beth Ennis
CHAIR

Renea Sageser
Dale Lynn
Emily Sacca
Kresta Wilson
TAC MEMBERS

CAPITAL CITY COURT REPORTING
TERRI H. PELOSI, COURT REPORTER
900 CHESTNUT DRIVE
FRANKFORT, KENTUCKY 40601
(502) 223-1118

APPEARANCES
(Continued)

Lee Guice
Angie Parker
Sharley Hughes
MEDICAID SERVICES

Court Reporter's Note: At the request of DMS, all other participants appearing via Zoom or telephonically will not be listed under Appearances.)

AGENDA

Review and approval of July minutes

OLD BUSINESS

1. Issues with payment related to ADH centers (Mariosa, etc) - proposal letter sent from Jim Hisle regarding HH during pandemic - thoughts from the Cabinet on this group as they received almost no service since shut down.

2. All three groups have had discussions with CHFS regarding FS issues - paying for required CE, not being able to do FTF services as all other therapy providers are able to do. Still awaiting a response. Many of these children are recipients of Medicaid. Follow-up meeting postponed until 11/6.

3. Question regarding the ability to use 99072 during pandemic -- Additional supplies, materials, and clinical staff time over and above those usually included in an office visit or other non-facility service(s), when performed during a Public Health Emergency as defined by law, due to respiratory-transmitted infectious disease

NEW BUSINESS:

4. Code requests to be added to PT and OT fee schedule - please see attached sheet

5. Issues with United Health care: Main concerns:
   1. How often doctors have to sign script and POC. We are having issues with doctors' offices being swamped and not wanting to sign POCs in a timely manner.
   2. I am really concerned if they state a child will not get OT, PT, ST services if they get services in a school setting. We all know that school and medical therapy setting is different.

6. Determine 2021 Meeting Dates

Recommendations to MAC

Adjourn

DR. ENNIS: Any changes to the July and September minutes? I know we found them and sent them out before. Anybody see anything glaring that needed to be adjusted?

MR. LYNN: I didn't see anything.

DR. ENNIS: Then, we'll go ahead and approve those so they can get posted on the website.

The first item under Old Business was just to touch base again. When we ended our last meeting, we were trying to check on the status of a reply to the adult day health centers, and it appeared to have gotten lost in the shuffle.

So, I just wanted to come back to it again and see if the Cabinet had responded to that group with their proposal that came out of the shutdown during the pandemic.

MS. HUGHES: And I don't think it has. I had sent all that to Stephanie earlier in the week, but I checked with her this morning and she said that we would just have to get back with you at the next meeting.

DR. ENNIS: Okay. I'm just concerned because this is probably going on close to

six months now since they sent the letter. And I know everything is busy in Frankfort, but I can follow up with Stephanie, too. That's not a problem.

Can you scroll up just a little bit for me? Thank you, ma'am. We do just want to put on record that APTA Kentucky, KOTA and KSHA have been meeting with the Cabinet, several people, regarding First Steps' issues.

There were some pretty significant concerns regarding contracts, regarding training. We did finally get a follow-up meeting with those folks and several people from First Steps, and I'm trying to remember - I've got the names somewhere - on Friday morning.

And I was only able to attend part of the meeting. I know, Renea and Dale, you were both on there. I know there was some real positive dialogue about potential return to face-to-face services and the precautions that they're putting in place and that that's kind of in the proposal stage. We don't have a date on it yet, but the group that met with them was pleased with what they're putting forward for that.

I had to leave in the middle of the contract issues and I think there's still some

significant concern about the way the contracts are worded and the fact that providers don't get to see them ahead of time to comment on new pieces that get put into the contract or some things that have been put in the contract for years that people have disagreed with.

Dale or Renea, did anything else come out of that? Dale, you're muted.

MR. LYNN: No, I don't think so. Karen is trying to get on and she is looking for the password or something like that.

DR. ENNIS: It's in that same green square, Dale. If you want to just email her what I emailed you. The ID and password are on that.

MS. SAGESER: Beth, the training also was discussed, and there was a comment made that there wasn't a lot of providers who had stopped being providers at this point when they renewed the contracts.

And I had made the comment that I believe a lot of providers have renewed their contract until it gets to them. And then, when the training becomes mandatory in their area, you're going to see providers at that point stop.

And I told her that was the

same for me as well as I have pulled out of First Steps and I've been a long-time provider.

So, when it comes to different areas within our company, we are going to look at if the provider is full-time, it does not make sense for us to send them through the training.

But if they're only a part-time which is a lot of what the providers in the State of Kentucky are, maybe they have a therapist in the school system and, then, they have the part-time job, you're going to see that those are going to be the ones who probably back out.

So, I just made sure that they were aware of that, and I encouraged them to keep some data once it got to different districts and areas to then look to see, when it becomes mandatory, are you seeing a decrease in providers? So, that was my statement to them.

And, then, they did say that they were - the communication has increased with First Steps. We have seen increased communication. So, we were thanking them for that and we wanted to continue to see that not just on the TOTS, because once you see it on TOTS, it goes away, but to encourage them to also send out emails. So, that, I

think, was after you had left.

DR. ENNIS: Correct. And I am meeting with one of the U of L training folks this afternoon actually to discuss some of these concerns as well because I think there's mixed messages coming across. What that person reported to me was a little different from what I heard on the meeting. So, I'll let you guys know.

The reason that we're talking about this in this particular meeting is that the majority of the children seen under First Steps are Medicaid recipients.

While there are some who have a primary insurance that may be a commercial payor, a lot of them that have significant disabilities at least have Medicaid as a secondary, if not as a primary, and we're going to have some concerns if we don't have providers for these kids down the line.

MS. SAGESER: I did make a comment that our waiting list is over 600 patients right now.

DR. ENNIS: For outpatient?

MS. SAGESER: Yes, and several are under the age of three because they're not getting that face-to-face service, or parents are

frustrated with the First Steps' process. And, so, the State is paying for it somewhere and these kids are in limbo right now. So, I think 600 kids on a waiting list is a lot.

DR. ENNIS: Lee, did you have a comment? I saw you unmuted.

MS. GUICE: Did I?

DR. ENNIS: It's okay. I wanted to make sure.

MS. GUICE: I appreciate that. My brain must have unmuted because I did have a question that I wasn't sure about interrupting or interjecting here.

DR. ENNIS: No. Please.

MS. GUICE: The question I had was First Steps, can you tell me who the parties to the contract that you're talking about are?

DR. ENNIS: The First Steps' folks, the State lead agency - Paula Goff is the head of that - develops the contract every two years. And in previous times, we have not even been able to see it before it gets approved by wherever in the state government it gets approved by. And at that point, there's no chance to change it.

So, this has been a concern.

I've been involved with First Steps for twenty-two years. It became even more of a problem when they started putting some things in that impact people's ability to do business outside of First Steps, and, then, to put training requirements in and mandatory components in without people getting a chance to review that ahead of time to say this is going to be a problem.

And to be honest, I think a lot of people renewed this year because we had started this conversation before the due date and we were hoping to have some answers. So, they kind of worked through the process and we didn't get a follow-up meeting until three months later.

So, I don't know how many folks are actually going to be providing services moving forward. We'll see.

MS. SAGESER: That meeting was with Paula, Andy - it is Waters - is that his last name?

DR. ENNIS: I think so.

MS. SAGESER: Jackie Richardson and Carrie Banahan.

DR. ENNIS: And, then, Doctor, is it Hoda?

MS. GUICE: Yes.

DR. ENNIS: She was in attendance as well.

MS. GUICE: Okay. Thank you. Carrie Banahan is the Deputy Secretary of the Cabinet.

DR. ENNIS: And we went to her and Jackie with our concerns because we hadn't gotten anywhere within the state lead agency, and they went back to the First Steps' folks and talked through some of the issues and, then, facilitated the meeting on Friday with all of us.

MS. GUICE: Okay. Great. I think you all are going down the right path.

DR. ENNIS: We're trying.

MS. SAGESER: My concern is the data that they're getting is not accurate data.

MS. GUICE: The data that who is getting?

MS. SAGESER: The data that Jackie Richardson had regarding how many providers had dropped out. I think she said like fifteen to twenty had dropped out. I know Kresta is in there with me. Like, there's been a lot more.

MS. WILSON: There's like almost

fifteen just within my agency.

MS. SAGESER: That's what I said, too, under my agency. I said, is that like per agency? So, I don't think their data was correct. So, I asked them to clarify their data and I'd like to see that in writing.

MS. GUICE: So, one of the things that I would offer to you is that if you have conflicting data, put it together.

DR. ENNIS: We did.

MS. GUICE: And, then, you can say, well, here's what we have and that might help with----

DR. ENNIS: We did that, Lee. We surveyed providers ahead of time to see how many had dropped, were planning to drop or were satisfied with what they were doing. We got information across the board.

I think the difference is that First Steps may be saying we've had "x" number of agencies drop. And within an agency, you might have thirty providers. You might have one. So, there's very different numbers that are coming across and I think we need to clarify that.

MS. WILSON: I bet they're

looking at the contracts with the agencies because that's like one entity and, then, you've got the subcontractors. So, yes, I think you're right, Beth. I think that's what they're looking at.

DR. ENNIS: So, we just wanted to touch base on that and have it on record that we're trying to work through some things there because it's a significant concern for our kids that are on Medicaid.

The third item came up last time and I don't know that we had an answer, and I think it was one of those last-minute additions. So, we really didn't have a lot of information, but we're a little further into our pandemic mode here now.

Do we know if the State has approved the 99072 code for use during this public health emergency that we're sitting in?

MS. GUICE: We have not.

DR. ENNIS: Okay. Is there any thought about doing that?

MS. GUICE: It's been in discussion since the code came out. This would be a pretty big step for Medicaid and a pretty big financial or fiscal impact.

DR. ENNIS: Absolutely.

MS. GUICE: So, while we understand that it's a pretty big impact on providers as well, yeah, it's under discussion right now. There's a lot of pulling and tugging at the pocketbook.

DR. ENNIS: Absolutely. No, we understand. I think providers wanted to know if it was on the radar and what the status was. So, we wanted to make sure we included it.

So, into the New Business arena, in trying to stay on top of fee schedules and code lists, we did attach a sheet to this with code requests to be added to the PT and OT fee schedule.

They are elsewhere in the Medicaid fee schedule. So, they're not new additions to Medicaid. It would just be making sure that they're included in the PT and OT components because they are services we're able to bill for within our scope of practice.

So, we wanted to make sure that the Cabinet had those as they were working on the 2021 fee schedule.

So, if there's any questions from the Cabinet, please just send them back to us and we're happy to talk through.

The fifth item, Sharley sent me a question and said how can you be having concerns with United when they're not even a provider yet? Because we're trying to work through some things ahead of time.

So, because credentialing takes a while and because we want to try and figure out what their rules are just like every other MCO has different rules for how you do stuff, we have been in discussion with United Healthcare, all three provider types and there were significant concerns with what was posted on their website because their intention is to provide Medicaid services in Kentucky the way they do elsewhere in the country.

And, so, while they hadn't published the Kentucky-specific page, they did reference some other pages when we met with them that we were able to view.

Renea, you've done a deepest dive into this. Do you want to speak to the bullet points that are under Number 5?

MS. SAGESER: Yes. I just pulled it up on my email, too, here. So, one of them is I was just asking are we going to follow the state guidelines.

Some of this is going to require a lot of extra work on our therapists and our doctors' offices. And we already know that it's hard enough to get a script back from a doctor and a plan of care. And, so, what they're asking is sort of above and beyond what the State is requiring.

And, so, one is the signature and date of prescribing physician. Our OT's and PT's, we do a progress report every thirty days. And based on this, based on their guidelines, every thirty days, the doctor is going to have to sign and return.

So, the requesting physician, it says, and the referring specialist will need to sign the plan of care and progress reports whenever they are submitted for a prior authorization.

And, then, I think my main issue was, let's see here, questions related to re-evaluations. Every re-evaluation has to have an updated script if it's over thirty days old.

Well, in the State of Kentucky, it says you need a script every year. Every calendar year, you need an updated script. And based on this, it is saying every six months, you're going to need a script, especially if it's over thirty days old. So,

that is a concern as well.

So, we're requiring our doctors to do a lot more. And we understand, the doctors are in control of the plan of care and we want the doctors to be a part of this and to see what's going on in a child's plan of care as well as duration of therapy.

But United is asking a lot more than any other MCO and it's going to require a lot of time on the therapist, the admin team, as well as the doctors' offices. And, so, they're going to be really frustrated with the providers consistently asking them for updating this information.

I think she answered that one. We were good with that.

DR. ENNIS: I think the school setting communication is the biggest one.

MS. SAGESER: Yes, that is probably the biggest one. So, it's saying if a child gets therapy in the school, then, they are not going to be able to get therapy in the medical setting.

So, we just really want clarification on that because we have a lot of kids who do receive services in the school and we know that those are different services than in the medical

setting. PT, OT and speech all are different. You don't get feeding services in the school system. There are certain services in the school system for therapy receptive (inaudible) that you just don't get in that group setting versus individually.

So, for the medically fragile children, that's a big concern, and that's probably going to happen for OT and PT as well.

MS. GUICE: Okay. So, in the school setting, that information about in the school setting that United told you, that's just wrong.

DR. ENNIS: Good to know.

MS. GUICE: That's simply wrong.

MS. SAGESER: We just want it in the record that they have told us that.

MR. LYNN: The reason why we're having problems with United Healthcare before they're even a provider is that we researched what they're doing in other states and that's how we came up with these questions.

One of the other concerns we have is them implementing the MPPR rule in other states. As low as the reimbursement is now, when you add MPPR, it's a killer. You can't even afford to pay your therapist at that rate. That was another

question we had of United Healthcare.

And, then, in other states, as Renea mentioned, they're asking for IEP's. They want to see IEP's whenever you request medical services, and we don't have access to that. They have to get that from the parent and the parent really doesn't have to give that to them.

MS. GUICE: Correct.

DR. ENNIS: So, I guess, Lee, there's just concerns and we tried to meet with them ahead of time just to work through some of this and let them know of what Kentucky's plan has been and see what concerns would be before we hit the ground and there were several flags that came up.

MS. SAGESER: Yes. And, Beth, I wanted to add. This is for Kentucky only. I shouldn't say that, but it says for Kentucky only. And, so, all of those things, it was pulled for outpatient PT, OT and speech for Kentucky. So, they have already said this is Kentucky's guidelines.

DR. ENNIS: So, they did publish the Kentucky page finally?

MS. SAGESER: Yes. So, these are the Kentucky guidelines that I'm referencing these questions to. So, they've already put this on

the Kentucky guideline page. Would you like me to forward that to you, Ms. Guice?

MS. GUICE: No. And it's Lee, not Ms. Guice, just Lee. Thank you but I can take a look at that.

The position of Medicaid has always been this. This is between the MCOs and the providers. It's a contract that you enter into with them and you have the choice to do so or not.

I can tell you if the information you get is incorrect or that they're giving you information that's incorrect, but it's really your choice to enter into a contract with them or not.

And I would encourage you to negotiate because they are required to have an adequate network. And if a group of providers negotiate as a group, I mean, I'm not asking you to collude but you can certainly negotiate or talk about what terms are good or bad or what's been appropriate in Kentucky and what has not been appropriate in Kentucky.

DR. ENNIS: Lee, the other concern that I will tell you related to that, and I've seen it historically with other MCOs, is that

there are some very large therapy networks in the state that treat adults that have some negotiating power, and the hospitals have some negotiating power.

Pediatric facilities are generally small enough that we don't have a ton of negotiating power. And those large providers that treat adults and might occasionally treat a child can do some negotiating but can also absorb some things like MPPR. Hospitals can absorb some things like MPPR.

MS. GUICE: What is that?

DR. ENNIS: That's a payment reduction process that Medicare uses. And, so, the first code is paid at whatever Medicaid's fully-agreed price is or whatever the contract's full-agreed price is and, then, there are subsequent reductions - 50% on the next code, 75% on the next code - and, so, it significantly reduces what gets paid to that provider.

They are already probably getting probably at most 50% of what they would have billed to a commercial payor and, then, it's reduced even further.

So, for a patient who is a Medicaid recipient, they might be getting 35% of

billed services which people can't keep their lights on, but the payors are seeing it as a cost savings.

And because it's something that Medicare does, it's something that they can choose to do, and we don't really have the ability to say we're not going to see you because they can approve a provider network with these larger groups.

They may not be appropriate provider types. They're PT's, they're OT's, they're speech paths, but they may not be pediatric-specific. Somebody doesn't want me working on their spine. I don't want them working on my child, but there isn't really a distinction when you look under PT or under speech or under OT in those provider networks to prove adequate capacity.

It's just do you have enough PT's; and if they've got one or two of those large networks, they've got a ton of PT's, OT's and speech paths. So, we can never really say it's a provider issue as far as volume which is a challenge.

MS. PARKER: Hi, Beth. This is Angie with Medicaid, and I understand where you're coming from and Lee did give you good advice. You don't have to contract with them.

And, yes, they do have to prove

network adequacy; but as you mentioned, there could be - we are looking a little bit more in depth on network adequacy and geo access on these things. Now, whether or not that will identify your smaller therapy offices, I can't guarantee that.

But if you can give me some specific - email me some of the issues that you are running into. I mean, we don't like to get in the middle of contract negotiations; but if there are general concerns, I can say this has been a concern identified in the community for therapy. Would you please look into this. Those types of things I can do.

DR. ENNIS: Absolutely, Angie. I think the two things that are listed on the agenda that are contrary to what Medicaid in Kentucky tends to do being listed as things that United is going to do, those are not contract issues. Those are just not what the State Plan says is required.

Providers know that they've got to try and negotiate but we've been bumping our heads against the wall with this for years. So, I'd be happy to send you something.

MS. PARKER: If you want to send me a specific issue you're having with United, I'll

be more than happy to say, okay, this has been identified with one of our providers. Either reach out to them or try to work out whatever if you want to continue to work with them or whatever I need to say; but, like I said, depending on what all the issues are, I am always more than happy to step in or help where I can.

DR. ENNIS: And we appreciate the drill-down, too. I will say that a lot of those what we call adult networks will say they treat children but it's generally they'll treat your twelve-year-old with an ankle sprain, not necessarily your significantly-impaired child with a chronic diagnosis kind of situation. So, it's hard to do that drill-down.

MS. PARKER: Right. I understand.

MR. LYNN: Angie, I appreciate your input there. The MPPR is probably the toughest concern we have because, as Beth was explaining it, especially for occupational therapy and physical therapy, if you see a child for one hour, that's four units and you get paid $20 per unit.

You get paid $20 for the first fifteen minutes, the second fifteen minutes is $10,

the third fifteen minutes is less than that, and the fourth fifteen minutes is less than that. It just shatters the reimbursement. That's probably one of our main concerns.

KOTA, KPTA and KSHA met with United Healthcare once and we'll have another meeting pretty soon with them expressing our concerns about what they're doing in other states and hopefully we'll see some progress with them.

DR. ENNIS: And it's also a challenge because in your adult outpatient world, they can see more patients at once than one; and with a kid, you can't do that. You're seeing one patient at a time, period.

So, it's apples and oranges but we appreciate knowing that you can support in any way possible and we'll send you some information. Thank you, Angie.

MS. PARKER: No problem. Like I said, I may not be able to fix it but it does come down to the contract and what the provider is willing to take or not take, and they do have to have an adequate network.

MS. SAGESER: Is the State of Kentucky - and I had talked a long time ago to

Stephanie Bates about this when it was first starting to happen when Passport was doing this to us.

Is the State of Kentucky, Medicaid Department, would they be open to putting for the protection of the children some kind of guideline that says MPPR policies cannot be imposed or is that something we need to go through the House and the Senate on the legislative side?

Is that like a law that we need to put in regulations or push towards or is that something that Medicaid can do?

MS. PARKER: Well, I mean, I hate to tell you to put that through a regulation. I'd rather work through it in different ways. I mean, that's not for me to decide.

MS. SAGESER: I'm just trying to brainstorm as a group.

MS. PARKER: Okay. Well, then, I will shut my mouth because I can't give you any advice.

DR. ENNIS: The challenge that we have had is that when we have talked about this previously, and, again, it's been going on for years - Passport tried to do it, Humana tried to do it - it has come down to the Cabinet not being able to

interfere with how the MCOs create their fee structure, right? They have to provide the services that are under the State Plan but the Cabinet can't tell them what to reimburse or how to bill, you know, all that kind of stuff.

And, so, we have looked at and we may need to revisit some kind of either statutory or regulatory way to deal with these on an ongoing basis, and we may have to go beyond Medicaid. I mean, we're seeing it with some commercial payors, too.

The difference with them is they will institute it midstream and, then, it becomes an orange-envelope issue because providers are not notified of the significant impact to their revenue cycle.

All right, guys. The only other thing on the agenda for today is our meeting dates for next year. At this point, I'm going to assume we're staying virtual. Do these Tuesday mornings seem to work for people? I'm seeing head nods. All right.

Sharley, do you want me to just pull up January?

MS. HUGHES: I'm pulling it up

here on my phone. We have January 12th, March 9th, May 11th, July 13th, September 14th, and November 9th.

DR. ENNIS: September 14th I may be out of town but go ahead and put it there if it works for everybody else. Are those good for everybody? I see head nods again. Anything else, guys?

MR. LYNN: When can we maybe expect some feedback on the new CPT codes or the additional CPT codes we've requested?

DR. ENNIS: So, at the very latest, they have to let us know by next meeting, but I'm going to be reaching out to Stephanie about the adult day health situation and see, since they're working on that fee schedule for January, what kind of time line we're looking at.

MS. LYNN: And also the discussions about PPE reimbursement, is there a possibility that some of those PPE items could be approved that would be a little easier on the budget?

MS. HUGHES: Is that the code that you're talking about?

DR. ENNIS: The 99072.

MS. HUGHES: Okay. I just wanted to make sure we weren't bringing in stuff that

wasn't on the agenda.

DR. ENNIS: We're not. We're sticking to agenda, I promise. Lee?

MS. GUICE: All I can tell you is that it's being discussed, but right now we've not adopted it. You know you all can always make a recommendation to the MAC, if you want.

DR. ENNIS: And I'm going to be attending that meeting. Do you guys want me to put that on the list?

MR. LYNN: Yes, please.

DR. ENNIS: Okay. Sharley, I'll send you something formal within the next two days.

MS. HUGHES: You have to do that during the meeting and let the committee vote on it, Beth.

DR. ENNIS: So, all in favor of me putting the 99072 recommendation to the MAC. Anybody opposed? All right. We will put that in there.

I'll put something formal to you, Sharley, later today because MAC is next week. Thank you very much.

MEETING ADJOURNED